

## REMARKS/ARGUMENTS

Claims 1-19 are pending. Claims 2-19 stand rejected under 35 USC 112 paragraph two, due to calling out dependencies to nonexistent claims. Claims 1 to 19 stand rejected on the ground of non-statutory obviousness-type double patenting over claims of US Patent 6,792,515.

### **Remarks regarding Claims rejected under 35 USC 112 paragraph 2**

Claims 2-19 stand rejected under 35 USC 112 paragraph two, due to calling out dependencies to nonexistent claims. These claims have been amended as follows to overcome this rejection.

2. *(currently amended) The apparatus of claim ~~115~~ 1, wherein the predetermined pattern is a regular pattern.*

3. *(currently amended) The apparatus of claim ~~115~~ 1, wherein the predetermined pattern is an irregular pattern.*

4. *(currently amended) The apparatus of claim ~~115~~ 1, wherein the predetermined pattern identifies a consecutive set of values.*

5. *(currently amended) The apparatus of claim ~~115~~ 1, wherein the means for modifying the values is further comprised of:*

*means for modifying the values according to a recognizable amount.*

6. *(currently amended) The apparatus of Claim ~~119~~ 5, wherein the means for modifying the values is further comprised of:*

*means for adding the recognizable amount to the values.*

7. *(currently amended) The apparatus of claim ~~119~~ 5, wherein the means for modifying the values is further comprised of:*

*means for subtracting the recognizable amount from the values.*

8. *(currently amended) The apparatus of claim ~~44~~ 5, further comprising the means for computing the recognizable amount includes:*

*a means for calculating a function of the variability in the flat area.*

9. *(currently amended) The apparatus of claim ~~42~~ 8, wherein the means for computing the recognizable amount is further comprised of:*

*means for computing the recognizable amount as a multiple of the variability in the flat area.*

10. *(currently amended) The apparatus of claim ~~44~~ 5, further comprising:*

*means for modifying the values in the flat area to provide at least one known peak in the flat area.*

11. *(currently amended) The apparatus of claim ~~44~~ 1, wherein the means for modifying the values is further comprised of:*

*means for modifying at least two of the values in the digital data to represent a single mark value in the flat area.*

12. *(currently amended) The apparatus of claim ~~44~~ 1, further comprising:*

*means for locating in the digital data, using a predetermined pattern, at least two values that represents a second flat area; and*

*means for modifying the values in the second flat area to encode the mark into the second flat area.*

13. *(currently amended) The apparatus of claim ~~44~~ 1, further comprising:*

*means for converting the format of the digital data.*

14. *(currently amended) The apparatus of Claim ~~44~~ 1, at least one of the means*

*is implemented using a computer accessing a memory.*

15. *(currently amended) The apparatus of Claim ~~44~~ 1, wherein the device is included in a computer receiving the unencoded data.*

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16. *(currently amended) The apparatus of Claim ~~44~~ 1, wherein the device communicates with a processor within a computer to create the encoded data within the computer.*

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17. *(currently amended) The apparatus of claim ~~44~~ 1, wherein the predetermined pattern is one dimensional.*

18. *(currently amended) The apparatus of claim ~~44~~ 1, wherein the predetermined pattern is two dimensional.*

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19. *(currently amended) The method of claim ~~44~~ 1, wherein the predetermined pattern is three dimensional.*

Consequently, the Examiner is requested to remove this rejection from these Claims.

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**Remarks regarding the non-statutory doubling patenting rejection of these claims**

Claims 1 to 19 stand rejected on the ground of non-statutory obviousness-type double patenting over claims of US Patent 6,792,515. A terminal disclaimer is being filed with this paper to overcome this rejection.

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## Summary of the Remarks

The presented Claims include amendments made to clarify the invention and address the Examiner's rejections. These amendments have been made to further expedite the prosecution of this application and do not constitute new matter, nor do they constitute an agreement by the Applicant to the Examiner's analysis. Applicant invites the Examiner to contact Applicant's representative as listed below for a telephonic interview if so doing would expedite the prosecution of the application.

Very respectfully submitted,

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Signature

  
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Date: June 25, 2007